



Distr.
LIMITED
LC/CNP10.9/2/Rev.1
23 February 2018
ENGLISH
ORIGINAL: SPANISH

Ninth meeting of the negotiating committee
of the regional agreement on access to information,
participation and justice in environmental matters
in Latin America and the Caribbean
San José, 28 February-4 March 2018

ANNOTATED PROVISIONAL AGENDA

A. BACKGROUND AND ORGANIZATION OF WORK

At the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, on 20–22 June 2012, 10 Governments from Latin America and the Caribbean endorsed the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean,¹ in which they reaffirmed their commitment to rights of access to information, participation and justice regarding environmental matters, declared their willingness to work towards a regional instrument promoting the full application of those rights and requested the support of the Economic Commission for Latin America and the Caribbean (ECLAC) as technical secretariat. Twenty-four countries have signed the Declaration to date and it remains open for signature by all countries in Latin America and the Caribbean.

In the outcome document of the United Nations Conference on Sustainable Development, entitled “The future we want”, adopted by the General Assembly on 11 September 2012² among several provisions referring to Principle 10 of the Rio Declaration on Environment and Development, the Heads of State and Government and high-level representatives acknowledged that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, were essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and eradication of poverty and hunger. They also underscored that broad public participation and access to information and judicial and administrative proceedings were essential to the promotion of sustainable development and encouraged action at the regional, national, subnational and local levels to promote access to information, public participation in decision-making and access to justice in environmental matters, as appropriate.

Between 2012 and 2014, four meetings of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean were held: the first in Santiago on 6 and 7 November 2012; the second in Guadalajara, Mexico, on 16 and 17 April 2013; the third in Lima on 30 and 31 October 2013; and the fourth in Santiago, from 4 to 6 November 2014.

At the fourth meeting of the focal points, the signatory countries adopted the Santiago Decision, in which they agreed to commence negotiations on a regional instrument on access to information, participation and justice in environmental matters in Latin America and the Caribbean. To that end, they established a negotiating committee, with significant participation by the public, and appointed Presiding Officers, comprising Chile and Costa Rica as co-chairs and Argentina, Mexico, Peru, Saint Vincent and the Grenadines, and Trinidad and Tobago as vice-chairs. ECLAC was requested to prepare a preliminary document on the regional instrument and the Presiding Officers were charged with steering the process, with the support of ECLAC as technical secretariat.

By virtue of resolutions 686(XXXV) and 706(XXXVI), adopted at its thirty-fifth and thirty-sixth sessions, held in 2014 and 2016, respectively, ECLAC took note of the progress made and the convergence achieved at the meetings of the focal points and the negotiating committee, which are reflected in the respective reports, and commended the secretariat of the Commission on the progress made in the process.

¹ See annex to the note verbale dated 27 June 2012 from the Permanent Mission of Chile to the United Nations addressed to the Secretary-General of the United Nations Conference on Sustainable Development (A/CONF.216/13).

² General Assembly resolution 66/288.

The Committee of the Whole of the Economic Commission for Latin America and the Caribbean took note of the Santiago Decision by virtue of resolution 693(PLEN.30), adopted at its thirtieth session, held in March 2015.

Eight meetings of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean have been held to date.

At the first meeting, held at ECLAC headquarters in Santiago from 5 to 7 May 2015, ECLAC presented the preliminary document on the regional instrument that the countries had requested it to prepare. The negotiating committee adopted its organization and work plan and agreed to hold its second meeting in Panama City, at the invitation of the Government of Panama, in October 2015.

At its second meeting, held in Panama City from 27 to 29 October 2015, the negotiating committee discussed substantive aspects of the regional agreement. The negotiations focused on the preamble, article 1 and part of article 2 of the document entitled *Text compiled for the second meeting of the negotiating committee by the Presiding Officers incorporating the language proposals received from the countries on the preamble and articles 1 to 10 of the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean*. The country representatives also had before them for consideration the document entitled *Proposed modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Note by the secretariat*, which had been prepared by the co-chairs.

At its third meeting, held in Montevideo from 5 to 8 April 2016, the negotiating committee made progress in the negotiations on articles 2 to 5 and numerals 1 and 2 of article 6 and adopted the *Modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean*.

At its fourth meeting, held in Santo Domingo from 9 to 12 August 2016, the negotiating committee concluded its review of article 6 and reviewed part of article 7.

At its fifth meeting, held at ECLAC headquarters in Santiago from 21 to 25 November 2016, under the auspices of the Government of Chile, the countries concluded the review of articles 7 and 8 and began reviewing article 9.

At the sixth meeting of the negotiating committee, held in Brasilia from 20 to 24 March 2017, under the auspices of the Government of Brazil, the countries continued with the negotiation of articles 9 to 25, on the basis of the fifth version of the text compiled by the presiding officers, and examined outstanding issues using flexible working modalities. The secretariat presented a preliminary report on the possible administrative, financial and budgetary implications of the agreement.

At the seventh meeting of the negotiating committee, held in Buenos Aires from 31 July to 4 August 2017, under the auspices of the Government of Argentina, the countries agreed upon articles 6, 7 and 8, continued reviewing article 9 bis and 10 and discussed institutional arrangements for the future regional agreement (on the basis of articles 11 to 25 of the compiled text).

At the eighth meeting of the negotiating committee, held at ECLAC headquarters in Santiago from 27 November to 1 December 2017, under the auspices of the Government of Chile and Costa Rica, co-chairs of the negotiating committee, the countries agreed upon the objective of the agreement (article 1),

access to justice in environmental matters (current article 8), human rights defenders in environmental matters (current article 9), capacity-building (current article 10), cooperation (current article 11) and the clearing house (current article 12). Partial agreement was also reached on the articles concerning principles (article 3) and general obligations/provisions (current article 4), and progress was made with the review of article 2 (definitions).

On that occasion, the countries agreed to make every effort to conclude the negotiations at the ninth meeting of the negotiating committee, which would be held in San José, under the auspices of the Government of Costa Rica. Accordingly, the purpose of the ninth meeting is to continue the negotiation of the regional agreement on the basis of the eighth version of the text compiled by the Presiding Officers, and review all outstanding matters in the expectation of concluding and adopting the text of the agreement.

The ninth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean will open in the morning of Wednesday 28 February 2018. Statements will be made by representative of the Government of Costa Rica; ECLAC, in its capacity as technical secretariat; and a representative of the public. The agenda for the meeting will be adopted at that time. Next, the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean—and observer countries, if they wish— will each have three minutes to report on actions carried out at the national level. This will be followed by statements by the technical secretariat and a representative of the public.

In the afternoon of Wednesday, 28 February, negotiations will begin on the regional agreement on the basis of the eighth version of the text compiled by the presiding officers.

As agreed, at 9 a.m. on Thursday, 1 March, the countries will continue with the negotiation of the regional agreement, on the basis of the eighth version of the text compiled by the presiding officers, and will review outstanding issues. The negotiations will continue until 6 p.m. on Saturday, 3 March. In the expectation that the negotiating committee will conclude the negotiation of the regional agreement at its ninth meeting, Sunday, 4 March will be devoted to the review and adoption of agreements. The closing session will be held immediately afterwards.

B. PROVISIONAL AGENDA

1. Adoption of the agenda.
2. Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat.
3. Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean.
4. Consideration and adoption of agreements.

C. ANNOTATIONS TO THE PROVISIONAL AGENDA

1. Adoption of the agenda

Delegations will have before them the provisional agenda³ for consideration and adoption. This draft agenda has been prepared by the secretariat in accordance with chapter II of the rules of procedure of ECLAC, bearing in mind the various mandates of the Commission. Representatives of the countries of Latin America and the Caribbean may make such observations or suggest such modifications as they deem appropriate under the aforementioned rules of procedure.

2. Actions taken at the national level by the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development and activities carried out by the secretariat

Under this agenda item, the focal points of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean —and observer countries, if they so wish— will have three minutes each to report on the actions taken at the national level as part of the regional process. ECLAC will then report on the activities carried out by the technical secretariat since the eighth meeting of the negotiating committee, held in November-December 2017. Next, an elected representative of the public will be invited to report on the action taken by the public in the region in the framework of the process.

Reference documents:

- Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1)
- Santiago Decision contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970)

3. Negotiation of the regional agreement on access to information, public participation and justice in environmental matters in Latin America and the Caribbean

Under this agenda item, the representatives of the countries of Latin America and the Caribbean attending the meeting will continue negotiating the regional agreement. As agreed, negotiation will continue and outstanding issues will be reviewed on the basis of the *Text compiled by the Presiding Officers incorporating the language proposals from the countries to the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Eighth version.*

³ LC/CNP10.9/1.

Working document:

- Text compiled by the Presiding Officers incorporating the language proposals from the countries to the preliminary document on the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean. Eighth version (LC/L.4059/Rev.8)

Reference documents:

- Preliminary document of the regional instrument on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.3987)
- Access to information, participation and justice in environmental matters in Latin America and the Caribbean: towards achievement of the 2030 Agenda for Sustainable Development (LC/TS.2017/83)
- Ensuring environmental access rights in the Caribbean: analysis of selected case law. Extracts (LC/CNP10.8/DDR/2)
- Preamble: Proposal by Argentina, Chile, Costa Rica, Peru, Saint Vincent the Grenadines and Trinidad and Tobago. Second version (LC/CNP10.8/DDR/6/Rev.1)
- Article 2. Definitions: Proposal by Chile and Costa Rica (LC/CNP10.9/DDR/1)
- Articles 13-27: Proposal by Chile and Costa Rica (LC/CNP10.9/DDR/2)
- Organization and work plan of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4011/Rev.1)
- Modalities for participation of the public in the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/L.4163)
- Santiago Decision contained in the report of the fourth meeting of the focal points appointed by the Governments of the signatory countries of the Declaration on the application of Principle 10 of the Rio Declaration on Environment and Development in Latin America and the Caribbean (LC/L.3970)
- Report of the eighth meeting of the negotiating committee of the regional agreement on access to information, participation and justice in environmental matters in Latin America and the Caribbean (LC/CNP10.8/3)
- Compilation of inputs submitted by the public. Note by the secretariat (DDR/1)
- Society, rights and the environment: international human rights standards applicable to Access to information, public participation and access to justice (LC/W.712)
- Resolution 686(XXXV), adopted by the Commission at its thirty-fifth session, held in May 2014
- Resolution 693(PLEN.30), adopted by the Committee of the Whole at its thirtieth session, held in March 2015
- Resolution 706(XXXVI), adopted by the Commission at its thirty-sixth session, held in May 2016

4. Consideration and adoption of agreements

Under this agenda item, the representatives of the Latin American and Caribbean present at the meeting will review the agreements and, as appropriate, adopt them after making any amendments they deem necessary.

Working document:

- Draft final act (LC/CNP10.9/3)